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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,622	08/24/2006	Kenneth E. Irwin JR.	7445-000023/US/NPB	8972

22827 7590 10/16/2008

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GREENVILLE, SC 29602-1449

EXAMINER	
CHERIYAN JR, THOMAS K	

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
10/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/590,622	IRWIN ET AL.	
	Examiner	Art Unit	
	THOMAS K. CHERIYAN JR	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 February 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,6-11 and 13-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-3,6-11 and 13-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/28/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

It has been noted that claims 1, 8, 11, have been amended leaving claims 1-3, 6-11, and 13-18 to be presented for consideration.

Response to Arguments

Applicant's arguments filed 5/21/2008 have been fully considered but are not persuasive.

Applicant argues that the electronic game device as stated by the prior references "may" contain program instructions for presenting play of the game to the player, including interaction of the player with the game device. However, it would be obvious to one skilled in the art of gaming to use the gaming card machine as disclosed by Yamada combined with the lottery ticket structure as disclosed by Behm would therefore allow a player to simply use that lottery ticket with the gaming machine of Yamada and find out if they are a lottery winner or not. It is well known that lottery games are not interactive. Lottery tickets usually come in two forms. The first form is when the lottery ticket is predetermined meaning that the ticket is either a winner or not when you buy it. The second form is when the player selects a plurality of random choices. If the choices made by the player is the same as the choices made by the lottery ticket system, then the player wins. In any case, this combination as disclosed by Yamada and Behm show that no interaction is needed on the player's part.

Applicant also argues material disclosed by Yamada that pertains nothing to this case at all. Examiner combined only the structures of Yamada and Behm together with proper motivation to reject all claims as made by the Applicant.

Therefore, the Examiner has address all issues raised by Applicant and are now moot. This rejection is now FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being obvious by Yamada et al **(US 2002/0193157 A1)** in view of Behm et al **(US 6379742 B1).**

Regarding claim 1, Behm discloses a game apparatus comprising:

an electronic game device including a computer **(Yamada, Abstract and Figure 1, game device 2)**, a display operatively connected to said computer **(Yamada, Figure 1, Display 1)**, a game card interface operatively connected to said computer **(Yamada, Figure 8. It should be noted that a game card and a ticket is equivalent.)**, and at least one game programmed in said computer **(Obvious since a game is already programmed on this machine, it would be obvious to anyone skilled in the art of gaming to program a game with a predetermined outcome such as lottery card game which is well known in the art)**; and

a game card including game information stored thereon, said game card **(Yamada, Figure 2 shows a game card with game information. Lottery game cards inherently have a predetermined game card and is well known in the art)** adapted for connection with said interface wherein connection of said game card to said interface **(Yamada, Figure 1, interface 8 shows a game card being interfaced with a game card reader)** permits a player to initiate play of said game,

wherein said game information on said game card is contained in printed conductive elements,

and wherein the outcome of said game is predetermined solely by said information on said game card and displayed on said display is not changed by any subsequent play of the game with said electronic game device.

Yamada does not teach said game card is contained in printed conductive elements or that the game is predetermined based on the card but Behm does **(Behm, Abstract and Summary of Invention. It should also be noted that Behm's**

invention is related to lottery cards, and lottery cards are obviously well known in the art to have predetermined outcomes with no interaction from a player.)

The motivation for combining the teachings of Behm with Yamada is because both devices incorporate a game card in conjunction with a game card reader and display. The game card reader taught by Yamada does not teach explicitly reading the game card through conductive means however, Behm does. Both are game cards used for gaming purposes and it would be obvious to incorporate the lottery game card used by Behm into the system by Yamada. It should be noted that Behm teaches other methods for reading a game card such as using a bar code reader which could also be incorporated into the game card reader taught by Yamada.

Therefore, it would have been obvious at the time of the invention to anyone skilled in the art of gaming to combine the teachings of Yamada with Behm to create a game card reader that can read a game card through conductive means because it would be more accurate and secure and prevent people from simply just making a photocopy of a game card.

Regarding claim 2, Yamada and Behm disclose said predetermined outcomes are prize amounts **(Obvious since it is well known that lottery game cards have predetermined prize amounts.).**

Regarding claim 3, Yamada and Behm disclose said game is an instant lottery game **(Obvious since it is well known that lottery card games are well known to be instant lottery card games.).**

Regarding claims 6, Yamada and Behm disclose said computer is programmed with a plurality of said games and said information includes the identification of a specified one of said games **(It would be obvious that any computer can be programmed with a plurality of games.).**

Regarding claim 7, Yamada and Behm disclose said information is printed on said card in conductive ink **(Behm, Abstract and Summary of Invention).**

Regarding claim 8, Yamada and Behm disclose said specified one of said predetermined game outcome is represented by one or more impedances printed in said conductive ink and said computer is effective to determine the electronic signature of said impedances when said game card is connected to said interface **(The electronic signature obviously contains game information of the predetermined outcome of the lottery game card and would be able to communicate this information to the computer through the game card interface as shown in Behm or Yamada.).**

Regarding claim 9, Yamada and Behm disclose said electronic signatures are a measure of the resistance of said impedances **(An obvious property of the resistance of said impedances.).**

Regarding claims 10, 14, Yamada and Behm disclose said card additionally includes a barcode including data functionally related to said information **(Behm, Figure 1 and 2 shows a game card with barcodes.).**

Regarding claim 11, Yamada and Behm disclose a lottery game apparatus comprising:

a plurality of electronic game devices each including a computer **(Yamada, Abstract and Figure 1, game device 2)**, a display operatively connected to said computer **(Yamada, Figure 1, Display 1)**, a game card interface operatively connected to said computer**(Yamada, Figure 8. It should be noted that a game card and a ticket is equivalent)**, and wherein each of said devices includes a game programmed in said computer **(Obvious since a game is already programmed on this machine, it would be obvious to anyone skilled in the art of gaming to program a game with a predetermined outcome such as lottery card game which is well known in the art)**;

a set of game cards wherein each of said cards in said set includes data required by said electronic game devices to run said game **(Yamada, Figure 2 shows a game card with game information and Figure 1 shows a set of game cards. Yamada, Figure 2. It would be obvious that each game card would have different game data)**, said data is printed in the form of circuit elements on said cards in conductive ink **(Behm, Abstract and Summary of Invention)**; and

wherein each of said cards has a predetermined game outcome that is dictated soley by said data on said card and is not changed by any subsequent play of the game with the electronic game devices **(Behm, Abstract and Summary of Invention. It should also be noted that Behm's invention is related to lottery cards, and lottery cards are obviously well known in the art to have predetermined outcomes with no interaction from a player.)**; and

wherein said cards are adapted for connection with said interface **(Yamada, Figure 1, interface 6)** thereby permitting a player to initiate play of said game on said

device resulting in said computer generating said predetermined outcomes dictated by said data on said card connected to said interface and wherein said outcome is displayed on said display **(Behm, Abstract and Summary of Invention. It should also be noted that Behm's invention is related to lottery cards, and lottery cards are obviously well known in the art to have predetermined outcomes with no interaction from a player.)**

Regarding claim 13, Yamada and Behm disclose said computer applies power to said circuit elements through said interface and determines said data from the electrical signatures of said circuit elements **(It would be obvious that the computer shown in Figure 1 of Yamada has a power supply which the computer in turn powers the interface through the cable attached to the to computer.)**.

Regarding claim 15, Yamada and Behm disclose said interface is configured to permit a player to insert said cards into said device and to make an electrical connection between said data and said computer **(The interface as taught by Yamada obviously is configured to permit a player to insert said cards into the device to make an electrical connection between said data and said computer.).**

Regarding claim 16, Yamada and Behm disclose said device includes a switch operatively connected to said computer and aligned with a predetermined position on said cards wherein said switch is effective to permit a player to play said game **(It would be obvious that a computer has a switch to allow the player to play a game)**.

Regarding claim 17, Yamada and Behm disclose said cards include a scratch-off coating applied over at least a portion of said conductive elements wherein removal of said scratch-off coating by a player alters said conductive elements **(Obvious that all instant lottery card games have a scratch off coating applied. If the coating is conductive, then it would be obvious that the player would have altered the conductive elements.).**

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas K. Cheriyan whose telephone number is 571-270-3225. The examiner can normally be reached on Mon-Fri 7:30AM-5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Jones can be reached on (571)272-4438. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott E. Jones/

Primary Examiner, Art Unit 3714